

**HUMAN SERVICES DEPARTMENT[441]**

**Notice of Intended Action**

**Proposing rule making related to providers of behavioral health services to medical assistance recipients and providing an opportunity for public comment**

The Human Services Department hereby proposes to amend Chapter 77, “Conditions of Participation for Providers of Medical and Remedial Care,” Iowa Administrative Code.

*Legal Authority for Rule Making*

This rule making is proposed under the authority provided in Iowa Code sections 249A.4; 249A.15 as amended by 2018 Iowa Acts, Senate File 2418; and 249A.15A as amended by 2018 Iowa Acts, Senate File 192.

*State or Federal Law Implemented*

This rule making implements, in whole or in part, Iowa Code section 249A.4; 2018 Iowa Acts, Senate File 2418, sections 135 and 136; and 2018 Iowa Acts, Senate File 192, section 12.

*Purpose and Summary*

These proposed amendments reflect a recent statutory change entitling behavior analysts and assistant behavior analysts who are licensed pursuant to Iowa Code chapter 154D to payment for behavioral health services provided to recipients of medical assistance.

These amendments also reflect recent statutory changes entitling provisionally licensed psychologists, temporarily licensed marital and family therapists and temporarily licensed mental health counselors who are licensed pursuant to Iowa Code section 154D.7 to payment for behavioral health services provided to recipients of medical assistance.

*Fiscal Impact*

These changes may allow Medicaid members additional access to behavioral health services; however, any fiscal impact is expected to be minimal. Medicaid currently allows behavioral analysts and assistant behavioral analysts to provide services, but the supervising authority must do the billing. These amendments will allow for these two professional types to bill Medicaid directly. Since the Medicaid program is already incurring these costs, minimal fiscal impact is expected. The amendments adding provisionally licensed psychologists, temporarily licensed marital and family therapists, and temporarily licensed mental health counselors as eligible providers under Medicaid is expected to have minimal fiscal impact since the change is consistent with current policy.

*Jobs Impact*

These amendments may incentivize additional behavior analysts and assistant behavior analysts to practice in Iowa and enroll with Medicaid to deliver behavioral health services to Medicaid members.

*Waivers*

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to rule 441—1.8(17A,217).

*Public Comment*

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Department no later than 4:30 p.m. on October 16, 2018. Comments should be directed to:

Harry Rossander  
Bureau of Policy Coordination  
Department of Human Services  
Hoover State Office Building, Fifth Floor  
1305 East Walnut Street  
Des Moines, Iowa 50319-0114  
Email: [policyanalysis@dhs.state.ia.us](mailto:policyanalysis@dhs.state.ia.us)

*Public Hearing*

No public hearing is scheduled at this time. As provided in Iowa Code section 17A.4(1)“b,” an oral presentation regarding this rule making may be demanded by 25 interested persons, a governmental subdivision, the Administrative Rules Review Committee, an agency, or an association having 25 or more members.

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee’s meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rule-making actions are proposed:

ITEM 1. Amend rule 441—77.22(249A) as follows:

**441—77.22(249A) Psychologists.**

**77.22(1)** All psychologists licensed to practice in the state of Iowa and meeting the current credentialing requirements of the National Register of Health Service Psychologists are eligible to participate in the medical assistance program. Psychologists in other states are eligible to participate when they are duly licensed to practice in that state and meet the current credentialing requirements of the National Register of Health Service Psychologists.

**77.22(2)** A psychologist provisionally licensed to practice in the state of Iowa pursuant to Iowa Code section 154B.6 is eligible to participate in the medical assistance program when the person:

*a.* Possesses a doctoral degree in psychology from an institution approved by the board of behavioral science; and

*b.* Provides treatment under the supervision of a licensed psychologist pursuant to Iowa Code section 154B.6. Claims for payment for such services must be submitted by the licensed psychologist.

**77.22(3)** A psychologist provisionally licensed in another state is eligible to participate when the person:

*a.* Possesses a doctoral degree in psychology from an institution approved by the board of behavioral science; and

b. Provides treatment under the supervision of a licensed psychologist pursuant to Iowa Code section 154B.6. Claims for payment for such services must be submitted by the licensed psychologist who is duly licensed to practice in that state.

This rule is intended to implement Iowa Code sections 249A.4 and 249A.15 as amended by 2018 Iowa Acts, Senate File 2418.

ITEM 2. Amend rule 441—77.26(249A) as follows:

**441—77.26(249A) Behavioral health services.** The following persons are eligible to participate in the Medicaid program as providers of behavioral health services.

**77.26(1)** No change.

**77.26(2)** Temporarily licensed marital and family therapists. Any person who holds a temporary license to practice marital and family therapy pursuant to Iowa Code section 154D.7 is eligible to participate when the temporarily licensed marital and family therapist provides treatment under the supervision of a qualified marital and family therapist as determined by the board of behavioral science by rule. Claims for payment for such services must be submitted by the supervising licensed marital and family therapist.

~~77.26(2)~~ **77.26(3)** Licensed independent social workers (LISW). Any person licensed by the board of social work as an independent social worker pursuant to 645—Chapter 280 is eligible to participate. An independent social worker in another state is eligible to participate when duly licensed to practice in that state.

~~77.26(3)~~ **77.26(4)** Licensed master social workers (LMSW).

*a. and b.* No change.

~~77.26(4)~~ **77.26(5)** Licensed mental health counselors (LMC). Any person licensed by the board of behavioral science as a mental health counselor pursuant to Iowa Code chapter 154D and 645—Chapter 31 is eligible to participate. A mental health counselor in another state is eligible to participate when duly licensed to practice in that state.

**77.26(6)** Temporarily licensed mental health counselors. Any person temporarily licensed by the board of behavioral science as a mental health counselor pursuant to Iowa Code section 154D.7 is eligible to participate when the temporarily licensed mental health counselor provides treatment under the supervision of a qualified mental health counselor as determined by the board of behavioral science by rule. Claims for payment for such services must be submitted by the supervising licensed mental health counselor.

~~77.26(5)~~ **77.26(7)** Certified alcohol and drug counselors. Any person certified by the nongovernmental Iowa board of substance abuse certification as an alcohol and drug counselor is eligible to participate.

**77.26(8)** Licensed behavior analysts. Any person licensed by the board of behavioral science as a behavior analyst pursuant to Iowa Code chapter 154D is eligible to participate. A licensed behavior analyst in another state is eligible to participate when duly licensed to practice in that state.

**77.26(9)** Licensed assistant behavior analysts. A person licensed by the board of behavioral science as an assistant behavior analyst pursuant to Iowa Code chapter 154D is eligible to participate when the licensed assistant behavior analyst:

*a.* Holds current certification as an assistant behavior analyst by a certifying entity; and

*b.* Provides treatment under the supervision of a behavior analyst licensed pursuant to Iowa Code chapter 154D. Claims for payment for such services must be submitted by the supervising licensed behavior analyst.

This rule is intended to implement Iowa Code chapter 249A as amended by ~~2011 Iowa Acts, Senate File 233~~ 2018 Iowa Acts, Senate Files 192 and 2418.